IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AKAMAI TECHNOLOGIES, INC., and MASSACHUSETTS INSTITUTE OF TECHNOLOGY, Plaintiffs, v. DIGITAL ISLAND, INC. and KINETECH, INC. Defendants.	))))))))))))))	Civil Action No. 00-cv-11851RWZ Judge Rya W. Zobel JURY TRIAL REQUESTED
DIGITAL ISLAND, INC., and KINETECH, INC. Counterclaimants, v. AKAMAI TECHNOLOGIES, INC., Counterdefendant.	)))))))))))))	Civil Action No. 01-cv-11007RWZ

Declaration of F. Thomson Leighton

I, F. Thomson Leighton, hereby declare and state as follows:

1. My name is Tom Leighton. I am a Director and the Chief Scientist of Akamai Technologies, Inc. ("Akamai"). I know of the following from my own personal knowledge, and if called and sworn as a witness, could and would competently testify thereto.

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2.   I understand Digital Island has filed a motion for summary judgment of non-infringement of the '030 patent. This Declaration is filed in opposition to that motion.

3.   On November 27, 2001, I requested that Akamai personnel run a set of discovery tests to discover the location of Digital Island equipment in the Internet. I have attached a true and correct copy of the test results. Based on the discovery tests, Akamai has located at least two hundred fifty (250) deployments of Digital Island equipment throughout the Internet. A significant percentage of these deployments are in Client Networks whose primary business is providing connectivity to the Internet for end users. An example of such a Client Network is RoadRunner, which is a local Internet service provider in the Northeast.

4.   I understand that traffic measurements are conducted from these deployments to generate data, and that Digital Island then uses that data to route end users to optimal Digital Island content servers. Because these traffic tests are conducted from Client Networks, such measurements constitute network traffic tests from the client side of the network.

5.   In support of its motion, Digital Island argues that its does not perform traffic measurements from the client side of the network because, to the extent those measurements are being performed from equipment that also serves content, such equipment must be considered to be on the "server side" of the network. This is incorrect for the reasons set forth below.

6.   Even if content is served from a piece of hardware, if that hardware is physically located on the client side of the network and also performs a network traffic test, then Digital Island is performing traffic tests from the client side of the network.
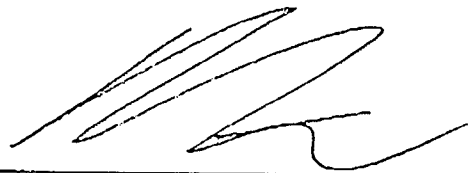
7.   Akamai's tests reveal that substantial portions of the content distributed by Digital Island is not distributed from all deployments. For example, all of Digital Island's streaming content is only served from approximately thirty (30) deployments, which are primarily centrally

located in the Internet. Thus, traffic tests are believed to be performed from over two hundred deployments from which streaming content is not being delivered. Whatever equipment Digital Island uses to carry out those traffic tests (even if that equipment is also used for serving non-streaming content) is operating on the client side (and not the server side) of the Digital Island streaming network.

8. In particular, when an end user requests streaming content from the Digital Island content delivery network, he or she presumably is routed to an optimal streaming server. Because the streaming servers are deployed in a centralized manner, and because some of the non-streaming servers are deployed in Client Networks that are located between end users and the streaming servers, at least some of the traffic measurements conducted by non-streaming servers are necessarily "client" side with respect to the streaming server deployment.

9. Moreover, the non-streaming servers that are deployed in Client Networks act as proxies for the performance of end users with respect to the Digital Island streaming network. Therefore, traffic tests from these non-streaming servers are client side network traffic tests for the Digital Island streaming network.

I declare under penalty of perjury that the foregoing is both true and correct. Executed on this 28th day of November, 2001.

P. Thomson Leighton

Non-Streaming Deployments for DI

IP	AS	Name	di_http_ips
38.200.111.131	174	PSINet	
208.45.129.195	209	Qwest	
216.206.179.4	209	Qwest	
63.237.52.162	209	Qwest	
62.132.142.99	517	University of Karlsruhe	
198.30.3.3	600	OARnet	
216.202.136.237	701	UUNET	
63.125.210.227	701	UUNET	
63.125.211.67	701	UUNET	
63.125.211.99	701	UUNET	
203.102.129.100	703	UUNET	
193.64.205.66	790		
209.167.238.227	814		
209.115.243.35	852		
206.61.145.131	1239	Sprint	
206.61.145.195	1239	Sprint	
206.61.145.3	1239	Sprint	
206.61.145.67	1239	Sprint	
208.23.76.6	1239	Sprint	
208.24.118.3	1239	Sprint	
63.162.230.3	1239	Sprint	
63.162.230.35	1239	Sprint	
63.162.230.67	1239	Sprint	
63.162.230.99	1239	Sprint	
63.174.72.230	1239	Sprint	
194.219.87.35	1241		
193.14.90.197	1257		
213.69.164.99	1270		
194.90.224.35	1680		
195.158.253.163	1755	Ebone Consortium	
195.158.253.98	1755	Ebone Consortium	
213.174.86.2	1755	Ebone Consortium	
213.174.86.34	1755	Ebone Consortium	
146.228.203.227	1836		
193.154.172.65	1901	KPNQwest Austria	
152.163.210.67	2056		
152.163.215.37	2056		
193.95.148.101	2110		
148.122.172.3	2119		
202.238.95.194	2527		
207.87.91.35	2548		
204.184.17.16	2572		
210.8.213.34	2764		
207.88.54.33	2828		
217.32.247.131	2856		
217.32.247.67	2856		
157.238.202.93	2914	Verio	
157.238.44.131	2914	Verio	
161.58.178.209	2914	Verio	
199.237.96.5	2914	Verio	
209.189.13.226	2914	Verio	
209.39.59.163	2914	Verio	
216.139.159.3	2914	Verio	
216.44.45.3	2914	Verio	
193.207.47.99	3228		
212.157.128.114	3259		
194.192.81.226	3292		
209.247.108.227	3356		
63.208.106.67	3356		
63.208.138.35	3356		
63.208.96.131	3356		
63.209.122.67	3356		
63.209.152.195	3356		

di_http_ips

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63.209.69.194  3356
63.210.100.163 3356
63.210.132.195 3356
63.210.241.3  3356
63.210.62.163 3356
63.211.20.227 3356
63.211.217.3  3356
63.211.227.195 3356
63.214.191.195 3356
64.152.2.35  3356
64.152.81.67  3356
211.20.185.2  3462
208.48.218.67 3549
208.48.218.68 3549
208.48.218.69 3549
208.48.218.70 3549
208.48.218.71 3549
208.48.218.72 3549
208.48.218.73 3549
206.24.176.140 3561
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199.181.166.164 3575
199.181.166.66 3575
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209.99.10.12  3900
63.150.163.39 3908
209.185.216.136 3967
216.35.138.28 3967
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200.183.26.108 4230
200.244.182.17 4230
200.244.182.86 4230
200.244.83.4  4230
209.92.185.179 4231
206.151.167.230 4281
208.59.215.99 4530
156.46.150.35 4550
216.145.208.158 4550
203.150.29.202 4618
203.120.73.55 4628      Pacific Internet/Singapore
202.67.197.227 4645
210.55.6.227  4648
210.118.237.67 4670
203.139.60.194 4682
211.11.159.131 4713
211.11.159.67 4713
203.149.9.39  4741
203.146.50.3  4750
203.230.212.109 4766
203.97.78.132 4768
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209.85.10.5  5097
195.92.74.35  5388
195.11.246.34 5417
194.78.225.35 5432
212.169.188.34 5549
63.141.36.121 5696
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216.151.111.13 6104
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di_http_ips

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207.230.26.3 6496
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165.193.100.6 6553
167.216.141.145 6553
167.216.142.116 6553
167.216.142.244 6553
167.216.148.129 6553
167.216.150.116 6553
167.216.196.97 6553
167.216.210.49 6553
167.216.216.116 6553
167.216.216.52 6553
167.216.217.116 6553
167.216.217.52 6553
167.216.218.180 6553
167.216.218.244 6553
167.216.218.52 6553
167.216.253.53 6553
216.80.78.98 6555
195.68.121.15 6675
213.41.120.35 6675
195.141.102.49 6730
195.141.86.81 6730
217.157.131.119 6785
195.13.68.163 6847
24.128.10.12 7015        ServiceCo LLC - Road Runner
24.30.1.9 7016
12.39.91.242 7018
12.43.50.163 7018
216.15.133.35 7393       Cybercon
216.218.1.106 7445
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211.36.242.163 7620
203.97.230.163 7714
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200.216.240.15 7738
209.240.77.195 7753
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148.235.64.197 8151
195.128.95.99 8470
213.5.17.99 8509
194.27.140.43 8517
195.54.111.69 8642
213.237.16.221 8807
213.239.31.131 8918
213.239.31.163 8918
213.239.31.195 8918
213.239.31.227 8918
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di_http_ips

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212.187.253.67 9057
194.129.64.162 9194
211.110.5.227 9277
210.14.0.163 9299
203.83.119.66 9513
202.79.124.37 9740
202.156.3.197 10091
216.17.5.243 10242
206.26.160.131 10588
205.188.132.67 10593
205.188.134.3 10593
205.243.85.35 10608
216.106.135.221 10608
65.32.4.161 10994
216.117.43.195 11264       Internet Direct Communications
64.224.18.81 11305
24.24.1.67 11351
200.186.158.3 11415
24.27.1.57 11427           ServiceCo LLC - Road Runner
198.5.146.194 11486
198.5.146.202 11486
204.178.119.194 11486
204.178.98.99 11486
208.245.164.252 11550      BlueMarble Information Services
64.29.65.67 11563
63.98.12.153 11653
24.94.162.66 11955
24.168.136.81 12271        ServiceCo LLC - Road Runner
212.110.163.163 12565
195.246.136.129 12642
213.145.21.133 12909
62.58.41.195 13127
64.156.31.227 13680
200.32.120.73 13835
200.41.60.163 13835
200.52.170.210 13999       Mega Cable Mexico
200.52.173.210 13999       Mega Cable Mexico
200.52.193.210 13999       Mega Cable Mexico
162.33.166.195 14390
216.235.98.97 14534
64.80.155.195 15270
216.219.75.3 15872
64.15.129.227 15878
63.104.225.163 16852
64.160.118.71 17018
216.82.99.104 17054
132.235.194.32 17135
202.169.46.3 17451
63.104.231.5 18511
63.121.98.69 18805
64.210.192.67 18994
63.121.106.133 19265
217.206.96.196 20136
141.150.149.226 n/a
192.168.10.3 n/a
209.181.82.198 n/a
216.47.225.180 n/a
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DI Streaming Deployments

IP	AS	Name	di_streaming_ips
216.206.178.252	209	Qwest	
212.177.57.40	702	UUNET	
212.209.75.24	702	UUNET	
213.174.86.162	1755	Ebone Consortium/STUPI	
148.122.172.35	2119	TELENOR	
202.238.95.226	2527	JNIC	
207.88.54.105	2828	Concentric	
212.155.204.87	3259	UUNET-FR	
63.137.0.35	3561	Cable & Wireless USA	
200.251.191.10	4230	EMBRATEL-BR	
216.246.84.71	5097	SoftAware	
195.92.10.5	5388	POL-AS/UK Internet Service Provider	
195.92.74.3	5388	POL-AS/UK Internet Service Provider	
62.210.134.162	5594	Cable & Wireless France	
64.56.69.35	5705	Verado	
64.78.210.5	5705	Verado	
165.193.99.70	6553	Digital Island	
167.216.132.218	6553	Digital Island	
167.216.132.219	6553	Digital Island	
207.189.78.251	6553	Digital Island	
207.189.78.253	6553	Digital Island	
207.189.87.198	6553	Digital Island	
207.189.91.185	6553	Digital Island	
207.189.95.198	6553	Digital Island	
212.162.58.163	9057	Level 3 Europe	
212.187.178.227	9057	Level 3 Europe	
212.73.235.67	9057	Level 3 Europe	
213.244.179.3	9057	Level 3 Europe	
202.79.124.5	9740	Cable & Wireless Singapore	
205.188.160.165	10593	America Online	
193.109.49.243	12755	COLT Internet Switzerland	